

District Judge James L. Robart

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEA SHEPHERD LEGAL,

Plaintiff,

v.

NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION, *et*
al.,

Defendants.

Case No. C19-463 JLR

STIPULATED MOTION TO
STAY BRIEFING SCHEDULE
AND ORDER

Plaintiff SEA SHEPHERD LEGAL (“SSL”) filed the above-captioned lawsuit under the Freedom of Information Act (“FOIA”) against Defendants NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION and NATIONAL MARINE FISHERIES SERVICES (collectively, Defendants), seeking disclosure of certain documents (“First FOIA Lawsuit”).

On October 11, 2019, the Court granted the parties’ stipulated motion to stay the dispositive briefing schedule. Dkt. No. 19. Defendants began processing additional documents in response to SSL’s FOIA request at issue in this case as well as SSL’s supplemental FOIA request in a related case pending before the Court. Sea Shepherd Legal v. NOAA, et al. 19-cv-1485-JLR (“Second FOIA Lawsuit”). Since the Court

1 granted the parties' stipulated motion, Defendants have produced all non-exempt
2 responsive records between December 21, 2018 and March 18, 2019.

3 Due to some new developments, Defendants subsequently decided to reprocess a
4 large number of previously redacted documents and produce them to SSL with an
5 amended *Vaughn* Index. However, after reviewing the reprocessed documents and
6 amended index, SSL determined that it was necessary to file a motion with the Court
7 challenging a selection of Defendants' redactions based upon FOIA Exemptions 5 and 7.
8 Given the overlap between the First and Second FOIA Lawsuits, the parties stipulated to
9 case consolidation for purposes of motion practice and to a proposed briefing schedule.
10 On June 12, 2020, the Court granted the parties' stipulated motion to consolidate and
11 approved the proposed briefing schedule. *See* Dkt. No. 34. The Court ordered that the
12 cases be "consolidated for all purposes, up to and including trial, under case number C19-
13 0463." *Id.*

14 Since case consolidation, two issues have arisen that require a stay of the present
15 dispositive motion schedule. First, SSL was able to obtain the primary documents
16 withheld pursuant to Exemption 7 from a third party with whom Defendants had
17 previously shared the documents. Second, Defendants have indicated that they will be
18 producing the records responsive to SSL's supplemental FOIA request in July 2020. In
19 light of the fact that the records at the center of SSL's current exemption challenge are no
20 longer at issue and that a new production is presently pending, the parties agree that it
21 would be in the interest of judicial efficiency to stay the present briefing schedule until
22 after the next records production in July. Once SSL receives and processes these
23 additional records (and any associated index), it will be able to determine whether there is
24 a need to challenge Defendant's full or partial withholdings (if any) of the newly
25 produced records in conjunction with those still at issue from the past production.

26 Accordingly, for good cause as described above, the parties respectfully request
27 that the Court stay the remainder of the briefing schedule and allow the parties to file a
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1 status report on or before August 14, 2020.

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3 Dated this 25th day of June 2020.

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5 Respectfully submitted,

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7 s/ Brett W. Sommermeyer
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9 s/ Catherine E. Pruett
10 CATHERINE E. PRUETT, WA BAR # 35140

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ORDER

Having reviewed the parties' stipulated motion, the Court finds good cause shown to strike the present briefing schedule. Dkt. No. 34. The parties shall submit a joint status update to the Court on or before August 14, 2020.

JLR

Dated this 26th day of June 2020.


JAMES L. ROBART
United States District Judge